

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, California 94104

DALE L. ALLEN, JR., State Bar No. 145279
dallen@aghwlaw.com
NICHOLAS D. SYREN, State Bar No. 334807
nsyren@aghwlaw.com
ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, CA 94104
Telephone: (415) 697-2000
Facsimile: (415) 813-2045

Attorneys for Defendants
HAYWARD AREA RECREATION AND PARK
DISTRICT and KEVIN HART

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH P. CUVIELLO and DENIZ
BOLBOL, individually,

Plaintiff,

v.

ROWELL RANCH RODEO, INC.,
HAYWARD AREA RECREATION AND
PARK DISTRICT, HAYWARD AREA
RECREATION AND PARK DISTRICT
PUBLIC SAFETY MANAGER/RANGER
KEVIN HART, and DOES 1 and 2, in
their individually and official capacities,
jointly and severally,

Defendants.

Case No. 3:23-cv-01652-VC

**DEFENDANTS HAYWARD AREA
RECREATION AND PARK DISTRICT AND
KEVIN HARTS' OPPOSITION TO
PLAINTIFFS' MOTION IN LIMINE NO. 3 TO
EXCLUDE EVIDENCE REGARDING THE
CONSTITUTIONALITY OF DEFENDANTS'
FREE SPEECH AREA**

Trial: October 21, 2024

Hayward Area Recreation and Park District ("HARD") and Kevin Hart join the County of Alameda's Opposition to Motion in Limine No. 3 to Exclude Evidence Regarding the Constitutionality of Defendants' Free Speech Area.

Defendants HARD and Mr. Hart oppose plaintiffs' Motion in Limine No. 3 to Exclude Evidence Regarding the Constitutionality of Defendants' Free Speech Area ("Motion") because the requested relief is too broad and would exclude evidence directly relevant to Mr. Hart's state of mind and thus of his specific intent to deprive plaintiffs of their free speech rights – an element of plaintiffs' Bane Act claim. This evidence is also directly relevant to countering plaintiffs'

1 claim that Mr. Hart worked “in concert” with County of Alameda Deputy Mayfield to enforce
2 Rowell Ranch Rodeo’s Free Speech Area (“FSA”).

3 HARD and Mr. Hart do not intend to argue one way or the other as to the constitutionality
4 of the FSA. Evidence regarding the FSA (for example, its location and proximity to the rodeo
5 patrons and the reasons why Mr. Hart believed it might be unconstitutional) is directly relevant to
6 HARD and Mr. Hart’s defense against plaintiffs’ Bane Act claim, which requires plaintiffs to
7 establish Mr. Hart’s specific intent to deprive plaintiff of their free speech rights, including but
8 not limited his intent to require them to move to the FSA in concert with the County deputies to
9 enforce Rowell Ranch’s free speech policy for the rodeo. Accordingly, plaintiffs’ motion to
10 exclude this evidence should be denied.

11
12 Respectfully submitted,

13 Dated: September 17, 2024

14 ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

15 By: /s/ Nicholas D. Syren
16 DALE L. ALLEN, JR.
17 NICHOLAS D. SYREN
18 Attorneys for Defendants
19 HAYWARD AREA RECREATION AND
20 PARK DISTRICT and KEVIN HART
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CERTIFICATE OF SERVICE

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Francisco; my business address is: 180 Montgomery Street, Suite 1200, San Francisco, CA 94104. On September 17, 2024, I served the within: **DEFENDANTS HAYWARD AREA RECREATION AND PARK DISTRICT AND KEVIN HARTS' OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE NO. 3 TO EXCLUDE EVIDENCE REGARDING THE CONSTITUTIONALITY OF DEFENDANTS' FREE SPEECH AREA** on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

SEE ATTACHED SERVICE LIST

☐ **By United States Mail:** I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

☐ **By Overnight Delivery:** I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☒ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **(FEDERAL)** I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on September 17, 2024, at San Francisco, California.



Danielle Costes

SERVICE LIST

1		
2		
3	Jessica L. Blome	Attorneys for Plaintiff Deniz Bolbol
4	Lily Rivo	Telephone: (510) 900-9502
5	Gina Tomasselli	Facsimile: (510) 900-9502
6	Greenfire Law, PC	E-Mail: jblome@greenfirelaw.com
7	2748 Adeline Street, Suite A	E-Mail: lrivo@greenfirelaw.com
8	Berkeley, CA 94703	E-Mail: tomaselli@greenfirelaw.com
9	Joseph P. Cuvillo	Plaintiff Pro Per
10	205 De Anza Blvd. #125	Telephone: (650) 315-3776
11	San Mateo, CA 94402	E-Mail: pcuvie@gmail.com
12	Paul Damien Caleo	Attorneys for Rowell Ranch Rodeo, Inc.
13	Osmaan Khan	Telephone: (510) 463-8600
14	Gordon Rees Scully Mansukhani, LLP	Facsimile: (510) 984-1721
15	1111 Broadway, Suite 1700	E-Mail: pcaleo@grsm.com
16	Oakland, CA 94607	E-Mail: oakhan@grsm.com
17		E-Mail: khernandez@grsm.com
18	William B. Rowell	Attorneys for County of Alameda,
19	Thiele R. Dunaway	Alameda County Sheriff's Office, and
20	Marc Brainich	Alameda County Deputy Sheriff Joshua
21	Michele C. Kirrane	Mayfield
22	Fennemore Wendel	Telephone: (510) 834-6600
23	1111 Broadway, 24th Floor	Facsimile: (510) 834-1928
24	Oakland, CA 94607	E-Mail: browell@fennemorelaw.com
25		E-Mail: rdunaway@fennemorelaw.com
26		E-Mail: mbrainich@fennemorelaw.com
27		E-Mail: mkirrane@fennemorelaw.com
28		

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
 180 Montgomery Street, Suite 1200
 San Francisco, California 94104